Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Market Entry and Regulation of	)	
International Common Carriers With	)	RM No. 8355
Foreign Carriers Affiliations	)	

To: The Commission

COMMENTS

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SUMMARY

AT&T proposes a series of rigid, protectionist rules whose purported intent is to prevent foreign carriers from leveraging their overseas market power to the disadvantage of U.S. carriers, and to facilitate the opening of foreign markets to U.S. carriers. The real purpose, and inevitable effect, of AT&T's draconian proposal is to discourage and inhibit U.S. and foreign carriers from establishing alliances in order to meet the increasingly sophisticated demands of customers, and to deter competition against AT&T in the international telecommunications marketplace. While MCI welcomes any review of Commission policies aimed at opening foreign markets to competition by U.S. carriers, the Commission should reject any consideration of the specific rules AT&T has proposed.

AT&T's first proposal would condition the entry of foreign carriers into the U.S. market and alliances between U.S. and foreign carriers on those carriers agreeing to conditions that would deprive the public of the innovative services that those carriers could provide. AT&T premises its argument on the unsupported assertion that the Commission's policies governing the participation of foreign carriers in the U.S. market are ineffective because, AT&T claims, they are fragmented. However, the Commission only recently refined those policies to respond to the very

concerns regarding leveraging that AT&T presents in its Petition.

AT&T provides no evidence that those Commission policies -- which reflect the Commission's discrete statutory responsibilities -- have been ineffective when the Commission has applied them or that they cannot be applied effectively in the future to address any specific concerns. By contrast, the conditions that AT&T proposes to impose on the entry of foreign carriers into the U.S. market and on U.S. carriers having essentially any ownership relationship with foreign carriers would frustrate the efforts of customers to obtain uniform, seamless international services across geographic and national boundaries.

AT&T's second proposal addresses the efforts of U.S. carriers to enter foreign markets. AT&T proposes that the Commission preclude foreign carriers from entering the U.S. market and U.S. carriers from establishing essentially any ownership relationship with foreign carriers, unless within two years the home markets of the foreign carriers provide competitive opportunities to U.S. carriers virtually identical to the competitive opportunities provided to carriers in this country. Under AT&T's proposal, the foreign administration's regulatory regime essentially must emulate the Commission's regulatory policies.

Although MCI agrees that the Commission should assist the efforts of U.S. carriers to enter foreign markets, it

would be counterproductive to pursue that objective by depriving customers of the services not only of foreign carriers, but also of any U.S. carrier in which a foreign carrier has the slightest ownership interest. The transparent intent of this AT&T proposal is to thwart the efforts of competitors, specifically MCI and BT, to participate vigorously in the international telecommunications marketplace.

Satisfying the public's demand for seamless, sophisticated international services requires reducing and eliminating historical impediments to interconnectivity, ubiquity and uniformity in communications services. This effort, in turn, requires the close cooperation of U.S. and foreign carriers, which may take many forms, including correspondent relationships, technological licensing agreements, joint venture and equity relationships and other forms of cooperation. Faced with the array of institutional advantages AT&T possesses in the international field, U.S. carriers necessarily must enter into various relationships in order to compete with AT&T. The Commission should not deprive U.S. carriers of the flexibility to pursue a suitable relationship whose beneficiary would be the public.

It would be appropriate for the Commission to review its international service policies and ascertain whether the existing regulatory regime is consistent with customer requirements. The Commission should consider the importance

of U.S. carriers associating with foreign carriers in order to satisfy those requirements and whether AT&T is hindering the efforts of competitors to expand their services overseas and to penetrate foreign markets. AT&T is expanding the entrenched position it enjoys with foreign administrations through extensive equipment manufacturing and infrastructure development arrangements and gaining additional leverage in competing with U.S. carriers. The Commission should consider strengthening its regulatory policies governing AT&T in order to prevent AT&T from unreasonably using its leverage to disadvantage competing carriers -- with negative consequences in both the domestic and international service markets -- and to facilitate the development of international service competition.

The Commission should also consider measures to encourage foreign administrations to open their markets to competition by U.S. carriers. In this regard, the Commission could articulate its goals concerning the participation of U.S. carriers in foreign markets; establish benchmarks for determining whether foreign markets are open to U.S. carriers; direct U.S. carriers to report on their progress in entering foreign markets; and reserve the right to adopt other measures in the future should foreign administrations fail to meet the benchmarks the Commission establishes.

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COMMENTS

MCI Telecommunications Corporation ("MCI") submits these Comments in response to the above-captioned Petition for Rulemaking ("Petition") filed by American Telephone and Telegraph Co. ("AT&T") on September 22, 1993.[1]

I. INTRODUCTION

In its Petition, AT&T asks that the Commission initiate a comprehensive review of its "regulation and market entry policies in the global services market."[2] Asserting, without substantive support, that current Commission policies "do not address satisfactorily the changing [global] market structure,"[3] AT&T proposes that the Commission impose a number of conditions on the entry into the U.S. market of a new foreign carrier, on the expansion of the operations of a foreign carrier currently operating

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[1] See FCC Public Notice, Report No. 1975, October 1, 1993.

[2] AT&T at i.

[3] Id. at 2.

in the U.S., or on the "affiliation"[4] of any U.S. carrier with a foreign carrier. The purported purpose of those conditions is to prevent such carriers from leveraging their overseas market power to the disadvantage of U.S. carriers. In fact, those conditions would effectively preclude U.S. carriers -- affiliated in virtually any way with foreign carriers -- from offering the kind of seamless, sophisticated international telecommunications services that customers demand.

Second, AT&T proposes that the Commission adopt rules providing that no foreign carrier entry or expansion application will be granted unless and until the Commission finds that "comparable opportunities for U.S. carriers to compete in the home markets of the prospective entrants presently are available or will be available within a reasonable period not to exceed two years."[5] Comparable opportunities in AT&T's view would be possible only if the regulatory regime in the foreign market essentially replicated this Commission's regulatory policies.[6]

For the reasons stated below, the Commission should reject AT&T's proposed rules. Those rules would only serve

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[4] Under AT&T's proposal, a U.S. carrier would be considered an affiliate of a foreign carrier if the foreign carrier owns at least a five percent interest in the U.S. carrier. AT&T at n.2.

[5] Id. at 7.

[6] Id. at 5-8.

to shield AT&T from competition and deprive the public of the benefits of that competition. However, as discussed below, MCI agrees that it would be useful for the Commission to consider measures to assist U.S. carriers to enter foreign markets.

II. A REVIEW OF COMMISSION POLICIES HAS MERIT, BUT AT&T'S PROPOSED RULES MUST BE REJECTED

The Commission has only recently concluded two comprehensive proceedings that address many of the issues AT&T has raised.[7] The policies the Commission has developed and its case-by-case approach to applying them, has provided the Commission the flexibility necessary to deal with the differing circumstances raised by particular foreign carrier applications.[8] Nonetheless, MCI agrees that the Commission should review its international telecommunications policies with the aim of fostering the participation of U.S. carriers in foreign markets. AT&T's proposal does not, however, constitute a reasoned improvement of those polices.[9]

Contrary to AT&T's contention, it is not necessary to bar foreign carriers from participating in the U.S.

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[7] See Regulation of International Common Carriers, 7 FCC Rcd 7331 (1992); Regulation of International Accounting Rates (Phase I), 6 FCC Rcd 3552 (1991).

[8] See e.g., Telefonica Larga Distancia de Puerto Rico, 8 FCC Rcd 106 (1992).

[9] Although couched in terms of assisting U.S. carriers to penetrate foreign markets, AT&T's basic goal is to thwart the proposed alliance of MCI and British Telecommunications plc ("BT") from developing innovative services and competing vigorously against AT&T. See AT&T at 32-39.

international service market or severely constrict their participation through relationships with U.S. carriers in order to assist U.S. carriers to enter foreign markets. There are a number of constructive measures that the Commission could adopt that do not have the draconian, counterproductive and self-defeating features of AT&T's proposal.

In conducting a comprehensive inquiry into those measures, it will be necessary for the Commission to examine a number of issues. These must include, at a minimum, the changing nature of customer demand for international telecommunications services; the importance of U.S. carriers associating with foreign carriers through a variety of relationships in order to satisfy that demand; whether the regulatory policies governing AT&T should be strengthened, given AT&T's entrenched position in the international telecommunications market, in order to facilitate the efforts of AT&T's competitors to penetrate foreign markets; and the Commission's experience in persuading foreign administrations to reduce their accounting rates and thereby expand competitive opportunities for U.S. carriers.

Only by examining issues such as these and by analyzing the effects of its current policies will the Commission be in a position to know whether it should revise its policies. However, in doing so, the Commission cannot accept AT&T's distorted evaluation of its policies. And to

put AT&T's proposed rules out for comment verbatim simply would not be justified.

AT&T's proposed rules are premised on the argument that foreign carriers have the leverage to disadvantage U.S. carriers and that the Commission's regulatory policies governing foreign carriers are ineffective in meeting this threat because they are fragmented among various licensing and authorization mechanisms.[10] AT&T's argument is fundamentally flawed. AT&T simply fails to demonstrate that the Commission's current regulatory policies cannot effectively prevent foreign carriers from leveraging their overseas market power to the disadvantage of U.S. carriers or that those policies cannot be modified, as appropriate, to address any new concerns.

In proposing to enter the U.S. market or to expand their U.S. operations, foreign carriers are fully subject to Commission policies designed to preclude them from providing special concessions to U.S. carriers which they control or otherwise discriminating against U.S. carriers. The Commission can evaluate at the threshold application stage whether foreign carriers could leverage their market power in violation of Commission policies and can condition their authorizations to prevent that result. The Commission on its own motion or AT&T and any other aggrieved U.S. carrier can also seek to interdict any foreign carrier conduct that

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[10] AT&T at 13-32.

is inconsistent with Commission policies. Moreover, the Commission may be expected to continually refine its policies and adapt them to mitigate any practices of foreign carriers that may disadvantage U.S. carriers.

AT&T's contention that the Commission's policies are ineffective because they are applied in a variety of contexts is baseless. Simply because different standards may be applied in different contexts does not mean that the application of any of those standards is ineffective in serving its intended purpose. Indeed, the application of different standards is often required by the particular context in which an issue is presented to the Commission.

For instance, the Commission has discrete statutory responsibilities pursuant to Section 214 of the Communications Act and under the Cable Landing Act in considering proposals by foreign carriers to enter the U.S. market or expand their U.S. international service operations. In discharging those statutory responsibilities, the Commission has developed policies that share a single purpose -- to enhance the ability of U.S. carriers to expand their services overseas by encouraging foreign administrations to provide reciprocal and equivalent opportunities to U.S. carriers seeking to enter their markets. MCI has supported those Commission efforts and will continue to do so.

The public interest clearly would be served by the intensification of international service competition and the expansion of U.S. carrier services. But the public interest would not be served by AT&T's proposals which would place unwarranted obstacles in the paths of AT&T's competitors. Faced with the array of institutional advantages that AT&T possesses, AT&T's competitors necessarily must consider, and enter into as appropriate, relationships with foreign carriers in order to satisfy the end-to-end service requirements of their customers.

The draconian nature of AT&T's proposal resembles its earlier proposal to compel foreign carriers to agree to reductions in accounting rates or risk the loss of U.S. services.[11] The Commission rejected that AT&T proposal and adopted instead a reasoned approach that avoided victimizing U.S. customers and succeeded in achieving substantial reductions in accounting rates. The Commission should draw on that experience in this proceeding in considering policies that would assist U.S. carriers in their efforts to enter foreign markets.

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[11] See Comments of AT&T, filed in Regulation of International Accounting Rates, CC Docket No. 90-337, Oct. 12, 1990, at 36-37.

III. THE COMMISSION SHOULD EXAMINE THE INTERNATIONAL SERVICE REQUIREMENTS OF CUSTOMERS AND DETERMINE WHETHER AT&T IS HINDERING THE EFFORTS OF COMPETING U.S. CARRIERS TO EXPAND THEIR SERVICES OVERSEAS

Rapid transformations are occurring in the demand for international telecommunications services that present new and extraordinary challenges for telecommunications service providers. With the globalization of industrial and business activities, customers increasingly are demanding uniform, seamless services transparent to geographic and national boundaries. Customers need the ability to link all of their locations on a world-wide basis with functionally the same telecommunications service. Different telecommunications technologies and standards existing in different countries have presented barriers to the desired interconnectivity, ubiquity and uniformity in services and have resulted in the unavailability of many service options and uneven service quality across national boundaries. The task of reducing and eliminating those barriers is a challenge that requires the close cooperation of U.S. and foreign carriers. Alliances between U.S. and foreign carriers are therefore a necessity.

Those alliances may take many forms, including correspondent relationships, technological licensing agreements, joint venture and equity relationships, as well as other forms of cooperation. Customers will clearly benefit significantly as those relationships succeed in removing existing technological and operational impediments

to the provision of sophisticated, seamless international services. The Commission therefore should take steps to encourage such relationships instead of discouraging them as envisioned by AT&T's proposed rules.

Rather than using AT&T's proposed rules as the starting point of its inquiry, the Commission should instead examine the more fundamental issue of what kinds of international services customers require and whether the existing regulatory regime is consistent with those requirements. The Commission should also consider measures to assist the efforts of U.S. carriers in expanding their services overseas.

In conducting its inquiry, the Commission should examine the implications of AT&T's unique position in the international telecommunications market and decide whether its policies governing AT&T should be strengthened in order to improve the competitive climate. Through its long-standing relationships with foreign administrations, AT&T is in a commanding position to extract favorable accounting rates and use that advantage to enhance its dominant position in the international market as well as abuse its market power by engaging in discriminatory and unreasonable pricing practices. Moreover, by virtue of the unique advantages it enjoys as an equipment manufacturer, AT&T is in the process of expanding its relationships with foreign

administrations and obtaining additional leverage in competing with other U.S. carriers.

For example, in the past two years alone AT&T has teamed up with the governments of Spain, China, Taiwan, Chile, Poland, the Czech Republic, Kazakhstan, Ukraine, Armenia and Russia in modernizing their telecommunications infrastructures.[12] AT&T will be establishing facilities in China for the manufacturing of telephones and microelectronic parts and for R&D activities.[13] AT&T's contract with the Taiwan government calls for a "strategic alliance" that would "exploit[] global marketing opportunities."[14] In Ukraine, AT&T entered a joint venture with the Netherlands PTT and the Ukraine government "to build, own, operate and modernize [Ukraine's] international and long distance telephone network."[15]

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[12] See PR Newswire, July 22, 1992, Communications Daily, September 22, 1993; Communications Daily, February 24, 1993; Communications Daily, February 25, 1993; PR Newswire, December 10, 1991, PR Newswire, April 8, 1992; PR Newswire, June 6, 1991, PR Newswire, March 12, 1992; Communications Daily, September 3, 1993; Communications Daily, February 13, 1992, PR Newswire, March 17, 1992.

[13] Communications Daily, February 24, 1993.

[14] Communications Daily, February 25, 1993.

[15] Communications Daily, February 13, 1992; PR Newswire, March 17, 1992. Other types of recent arrangements between AT&T and foreign carriers include: a joint venture with a Brazilian company in order to comply with a proposed Brazilian law requiring the state-owned carrier to purchase equipment only from local manufacturers (Communications Daily, August 19, 1993); a distributor agreement with the Bulgarian PTT, where the PTT will sell and service AT&T

(continued...)

AT&T already enjoys an entrenched position in overseas markets as evidenced by its ability to secure reductions in accounting rates before those reductions are available to competing U.S. carriers.[16] While the modernization of foreign telecommunications networks is certainly a favorable development, the Commission should investigate whether AT&T is unreasonably leveraging its already favored position with foreign administrations to hinder the efforts of competing U.S. carriers to expand their services overseas. The Commission should determine whether to strengthen its regulatory policies governing AT&T to mitigate that result.

IV. THE COMMISSION'S CURRENT INTERNATIONAL POLICIES ARE ADEQUATE TO PREVENT FOREIGN CARRIERS FROM LEVERAGING THEIR OVERSEAS MARKET POWER TO THE DISADVANTAGE OF U.S. CARRIERS

The Commission recently and directly addressed AT&T's concerns with respect to the ability of foreign carriers to leverage their positions in overseas markets to the disadvantage of U.S. carriers. Although it is certainly appropriate for the Commission to reassess those policies,

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[15](...continued)
equipment to local businesses (PR Newswire, May 12, 1992); and the first major equipment sale by a U.S. company to Japan's NTT (Communications Daily, April 27, 1993).

[16] Although the Commission denied MCI's proposal to require that reductions in accounting rates be made simultaneously for all U.S. carriers, it declared its policy is to "detect and take steps to eliminate discriminatory treatment of U.S. carriers." Regulation of International Accounting Rates, 7 FCC Rcd 8049, 8052 (1992).

the Commission should recognize that its experience with those policies is limited since they have been in place for a relatively short period of time. Moreover, foreign carriers have participated in the provision of international communications services in the U.S. only to a limited degree and they evidently have not engaged in conduct that has required the Commission's intervention. There is therefore no empirical basis for the Commission to accept AT&T's assertion that the Commission's existing policies are ineffective in preventing foreign carriers from leveraging any overseas market power to the disadvantage of U.S. carriers.

In recent years, the Commission has undertaken important steps to expand the opportunities for U.S. carriers to extend the full range of their services to other countries and to increase the demand for their services. The Commission clearly has been sensitive to concerns regarding any asymmetry between opportunities available to foreign carriers to enter the U.S. market and opportunities available to U.S. carriers to enter foreign markets. It also has adopted measures to ensure that foreign carriers do not abuse whatever market power they possess by virtue of their overseas operations by discriminating in favor of certain U.S. carriers to the disadvantage of other U.S. carriers.

Accordingly, the Commission has authorized the resale of international private line services, including "simple resale", only to those foreign countries that permit equivalent opportunities with respect to traffic originating in those countries and terminating in the U.S. The Commission has required that, in filing a Section 214 application, an applicant must demonstrate that the Commission has found that the associated foreign country permits equivalent resale opportunities or must provide other evidence of equivalent resale opportunities.[17]

AT&T is simply wrong in contending (at 26) that the Commission's international resale policy as further enunciated in the Fonorola/EMI decision[18] "fails to provide meaningful guidance for other reciprocity analyses beyond its particular facts." To the contrary, the Fonorola/EMI decision provided a detailed analysis of the factors the Commission will consider in reviewing applications to provide international resale. For AT&T to say that the decision provides "no meaningful guidance" only reflects the fact that the Commission rejected AT&T's arguments in that case. Merely because the guidance was not to AT&T's liking, does not establish that it was not "meaningful".

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[17] Regulation of International Accounting Rates, 7 FCC Rcd 559 (1991), recon., 7 FCC Rcd 7927 (1992).

[18] 7 FCC Rcd 7312 (1992).

Similarly, just last year, the Commission revised its regulatory policies concerning the classification of U.S. international carriers having ownership relationships with foreign carriers. It decided to no longer broadly classify those carriers as dominant on all routes they serve. Instead, the Commission decided to apply the dominant classification only on a route-by-route basis in relation to those overseas markets where the foreign carrier possesses the ability to discriminate against U.S. carriers and when it actually controls its U.S. "affiliate" carrier.[19]

Consequently, in reviewing Section 214 applications, the Commission decided that if a U.S. carrier is not affiliated with a foreign carrier in the destination market, it will be presumed nondominant on that route; if a U.S. carrier is affiliated with a foreign carrier that is a monopoly in the destination market it will be presumed dominant on that route; and if a U.S. carrier is affiliated with a foreign carrier that is not a monopoly in the destination market, the U.S. carrier must demonstrate that its foreign carrier affiliate lacks the ability to discriminate against unaffiliated foreign carriers.[20] The Commission also required that an affiliated U.S. carrier state in its Section 214 application that it has not agreed

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[19] Regulation of International Common Carrier Services, 7 FCC Rcd 7331 (1992).

[20] Id. at 7334.

to enter into any special concessions with its foreign carrier affiliate involving traffic or revenue flows.[21]

The Commission's narrowing of the dominant carrier classification recognizes that foreign carriers have a limited ability to leverage their overseas positions to the disadvantage of U.S. carriers. Only when a foreign carrier controls a U.S. carrier does it have such leverage that its participation in the U.S. market through a U.S. affiliate requires closer Commission scrutiny and regulation. Ignoring the fact that that Commission decision was issued less than one year ago, AT&T's current proposal would classify a foreign carrier as an "affiliate" of a U.S. carrier whenever it had an ownership interest in the U.S. carrier of merely five percent or more and even if it did not control the U.S. carrier. AT&T provides no legitimate basis, and there is none, for the Commission to now repudiate its recent decision to the contrary.

The Commission also considers the ability of foreign administrations to disadvantage U.S. carriers in reviewing applications under the Cable Landing License Act.[22] That statute "is intended to achieve reciprocal treatment of United States interests which might desire to lay cables from the United States to foreign points, and otherwise is intended to protect the interests of the United States and

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[21] Id. at 7335.

[22] 47 U.S.C. §§ 34-47.

its citizens in foreign countries in connection with the issuance of cable landing rights."[23] Contrary to AT&T's suggestion (at 22-24), the Commission has vigilantly enforced that statutory requirement in ensuring that U.S. interests have reciprocal opportunities in landing submarine cables in foreign countries and providing services overseas.[24]

The Commission has also sought to address the ability of foreign carriers to leverage their overseas positions to the economic disadvantage of U.S. carriers through artificially high accounting rates. The Commission has succeeded in bringing about substantial reductions in accounting rates by streamlining notifications and waivers under its International Settlements Policy; recommending that U.S. delegations to the International Telecommunications Union seek revisions to existing CCITT Recommendations to clarify that accounting rates be cost-based and non-discriminatory; directing U.S. carriers to negotiate with their foreign correspondents accounting rates that reflect cost trends; establishing benchmark accounting rates; and requiring U.S. carriers to report their progress in meeting those benchmarks.[25]

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[23] Tel-Optik Limited, 100 FCC 2d 1033, 1043 (1985).

[24] See, e.g., Tel-Optik Limited, supra; Optel Communications, Inc., 8 FCC Rcd 2267 (1993).

[25] Regulation of International Accounting Rates, 6 FCC Rcd 3552 (1991), 7 FCC Rcd 8040 (1992).

The foregoing Commission policies directly address AT&T's concerns regarding the ability of foreign carriers to leverage their overseas market power. Although AT&T acknowledges the existence of these Commission policies, it complains that the Commission's approach to regulating foreign carriers is ad hoc and provides "little guidance for new situations."[26] Purportedly to illustrate its argument, AT&T claims that the MCI/BT transaction is "without a review based on clearly defined policies, through which the 'public interest' issues under the Communications Act can be determined."[27]

In fact, the Commission rigorously applies its policies in evaluating the entry proposals of foreign carriers. For instance, in Telefonica Larga Distancia de Puerto Rico, 8 FCC Rcd 106 (1992) ("TLD"), the Commission considered the transfer of a majority interest in the Puerto Rico long distance telephone company, Telefonica Larga Distancia de Puerto Rico ("TLD"), to LD Acquisition Corp., a subsidiary of Telefonica de Espana, Spain's monopoly telephone company. The Commission acknowledged concerns that U.S. carriers were being denied the opportunity to provide facilities-based service in Spain and that foreign carrier affiliates might "abuse their market power to the detriment of unaffiliated U.S. international carriers so

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[26] AT&T at 4.

[27] Id. at 5.

long as competitive entry is not permitted in the home markets of those affiliated carriers."[28] Nevertheless, it concluded that "[e]ach situation, however, requires an evaluation of the potential for discrimination and the effectiveness of safeguards in preventing anticompetitive abuse."[29] Rather than drastically restricting or precluding foreign carrier participation in the U.S. market, the Commission conditioned the TLD application in order to address legitimate concerns regarding the nature of that participation.

Notably, AT&T had requested that the Commission defer acting on the TLD application "pending the adoption of 'comprehensive rules and regulations' for entry by foreign carrier affiliates." 8 FCC Rcd at 109. The Commission rejected AT&T's suggestion, stating "[w]e believe the merits of AT&T's . . . substantive arguments can properly be addressed in the context of particular applications filed by the U.S. carrier affiliates to provide facilities-based end-to-end service from the United States." Id. The same reasoning -- and procedures -- would apply to any specific objections that AT&T may have to the provision of international services by other U.S. carriers.

AT&T also contended, as it does in its Petition (at 32), that "a foreign carrier could obtain from an

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[28] 8 FCC Rcd at 109.

[29] Id.

unaffiliated U.S. carrier proprietary information and provide such information to its affiliated U.S. carrier." 8 FCC Rcd at 112 n.45. The Commission found, however, that "AT&T does not . . . provide any specific examples of the type of information it fears might be transferred, or how that information might be used to gain a competitive advantage. We note, moreover, that U.S. carriers would presumably have similar opportunities to obtain proprietary technical and customer information from their foreign correspondents." Id.

Glossing over the aforementioned explicit Commission policies and the fact it is merely repeating arguments that were only recently rejected by the Commission, AT&T asserts (at 27), without offering any evidence, that those Commission policies do not adequately address the ability of foreign carriers to leverage their foreign market power in the U.S. AT&T acknowledges, as it must, that the Commission's policies directly address the possibility of such conduct, but complains that "they are insufficient because of the numerous loopholes that exist." Id. at 27-28. AT&T also argues that the Commission's policies are incomplete because they do not "address with sufficient clarity" to suit AT&T the "potential for abuses in the global market beyond the traditional concerns of accounting rate whipsawing and the manipulation of proportionate return." Id. at 28.